

TAXSAVER PLAN

"Your Satisfaction Is Our Success"

WHAT YOU NEED TO KNOW...

COBRA:

By now, you are probably very much aware of the COBRA premium assistance that is required of all employers who are required to offer COBRA on their group benefit plans. While we wait for clarification from the government on some of the particulars of the law, here are some points to consider:

- The law is generally effective as March 1, 2009
- The current period of required coverage for premium assistance is 9 months
- The premium assistance is to be offered to those ex-employees who involuntarily terminated as of September 1, 2008 and affects future involuntary terminations through December 31, 2009
- Direction from Kevin Knopf from the US Treasury Department indicates every QB who has had a qualifying event as of 9/1/08 or greater, regardless of the type of event, technically should receive some notification of ARRA and its COBRA provisions
- Premium assistance ends on the earliest of:
 - 9 months after the first day of the month of coverage period
 - The date following the expiration of the maximum coverage period
 - The date following the expiration of the period of coverage that would have been required if coverage would have been elected
- Premium assistance terminates if AEI is eligible for coverage under any other GHP or Medicare
- There is an extended election period:
 - If QB does not have an election in effect on 2/17/09, the extended election period begins on 2/17/09
 - Includes QB's who elected but stopped paying premiums
 - Extended election period ends 60 days after the QB is notified of their right to the extended election period
- When does the coverage period begin and end if elected during the extended election period:
 - Begins with the first period of coverage after 2/17/09 (typically 3/1/09)
 - Will not extend past the period of coverage had COBRA coverage that would have been required if COBRA had been elected in the normal manner

- QB pays 35% of what the plan charges
- If AEI pays full premium amount after 2/17/09 (beginning with first full month of coverage) payments should be credited towards future months when employer's 65% is calculated – hint: new coupons will need to be sent AEI participants
- Documentation required to receive the reimbursement:
 - Attestation of involuntary termination must be submitted to employer or COBRA TPA
- Employer may choose to allow QB to elect different coverage than they may have elected initially
- Plan administrator has 60 days to provide notice to QB's and QB's have 90 days to elect a change
- Changes to current notices (language is pending):
 - Only effects those that involuntarily terminated 9/1/08 – 12/31/09
 - Must notify those QB's of the availability of the premium assistance
 - Must notify those QB's of the option to change plan enrollment (if allowed by Employer)
- SPD's should be updated to reflect the premium assistance

*AEI is defined as Assistance Eligible Individual

*ARRA is defined as American Recovery and Reinvestment Act of 2009

More information will become available shortly. Please do not hesitate to contact us with questions.

HIPAA SPECIAL ENROLLMENT RULES:

Special Enrollment Rights for State Premium Assistance may be available through Medicaid or SCHIP programs effective April 1, 2009. If a current eligible employee or dependent of a current employee becomes eligible for a premium assistance subsidy under a plan from Medicaid or SCHIP, then a special enrollment is available in any package offered under the plan, if the employee is otherwise eligible to enroll in that package. States may offer premium subsidies through Medicaid or SCHIP to eligible low-income children and their families for "qualified employer sponsored coverage". Subsidy may be provided as a reimbursement to the employee or as a direct payment to the employer.

Special Enrollment Rights for the loss of eligibility to coverage of eligibility to a Medicaid or SCHIP plan has also changed and allows for retro-active coverage back to the date of the loss of eligibility to coverage. This is also effective April 1, 2009.

The major change to make note of is that where HIPAA Special Enrollment Rights previously allowed participants 30 days to make an election change, the employee is now allowed 60 days to make an election change under these two circumstances. If the Plan Document specifies the 30 day period of time under HIPAA special enrollment rules, it should be amended to reflect the 60 day election period under these circumstances. HIPAA Special Enrollment Right Notices should also be changed to reflect this change.

There are also some changes to the language when a new dependent has been acquired. Whereas retirees were not once considered eligible for HIPAA Special Enrollment, the acquisition of a new dependent by birth, adoption or placement for

adoption would allow a participant in a retiree medical plan to have Special Enrollment Rights under HIPAA.

DEBIT CARD UPDATES:

IRS Notice 2007-2 required all Drug Stores and Pharmacies to participate in an inventory information approval system as described in IRS Notice 2006-69 **effective January 1, 2009**. In the notice, if the Drug Store or Pharmacy did not comply by this date, it was required of all Plans to ensure that the FSA Debit Card would be denied at the point of sale at these locations. If a Drug Store or Pharmacy could prove that 90% of the gross receipts, from their location, were from the sale of expenses for medical care as defined under Code Section 213 (d), the Drug Store or Pharmacy could accept the FSA Debit Card.

IRS Notice 2008-104, issued in late December, provided Drug Stores and Pharmacies additional time to come into compliance with Notice 2007-2. Drug Stores and Pharmacies now have until **June 30, 2009** to comply with the Notice.

What Does This Mean for Participants?

At this time, Tax saver Plan has continued to allow the use of merchant category codes for Drug Stores and Pharmacies. In enrollment presentations and enrollment materials, the FSA Debit Card was touted as paperless when used at participating Drug Stores and Pharmacies. Participants have been asked to submit receipts to substantiate their FSA Debit Card expenses when they have used the card at non-participating pharmacies and retail stores.

For a complete list of Drug Stores and Pharmacies with IAS in place, please visit our website at www.taxsaverplan.com. This list is updated as often as monthly.

Current data analysis shows that 47% of all FSA Debit Card transactions occur at the Drug Store, Pharmacy, Grocery Store or Discount Store and are auto-adjudicated with the IAS (or Walgreens) electronic system. As more of these stores comply with IAS, we will see this percentage increase.

PRE-TAX TRANSIT PLANS:

As a part of the Stimulus Package, the maximum pre-tax election for Transit Plans was increased to \$230.00 per month. You should notify your plan participants about this increase to ensure they are receiving the maximum pre-tax benefit allowable.

As we are all faced with so many changes this year in our Benefit Programs, Tax saver Plan will continue to put out information in this fashion. Next on the agenda...important information about Non-Discrimination Testing, FMLA and qualified dependents under Section 125 Plans.

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